

PRACTICE DIRECTION

APPLICATIONS UNDER PARTICULAR STATUTES

APPLICATIONS UNDER PART III OF THE FAMILY LAW REFORM ACT 1969 FOR USE OF SCIENTIFIC TESTS TO DETERMINE PARENTAGE

1.1 In this section –

- (1) ‘the Act’ means the Family Law Reform Act 1969;
- (2) ‘direction’ means a direction under section 20(1) of the Act made in any proceedings in which a person’s parentage falls to be determined;
- (3) ‘responsible adult’ means –
 - (a) in relation to a person under 16 to whom sub-paragraph (b) does not apply, the person having care and control of him;
 - (b) in relation to a person who lacks capacity (within the meaning of the Mental Capacity Act 2005) to give his consent to tests –
 - (i) a person having power under that Act to give consent on his behalf; or
 - (ii) if there is no such person, the person with whom he resides or in whose care he is.
- (4) ‘samples’ means bodily samples within the meaning of section 25 of the Act; and
- (5) ‘tests’ means scientific tests within the meaning of section 25 of the Act.

1.2 Where an application is made for a direction in respect of a person who either –

- (a) is under 16; or
 - (b) lacks capacity (within the meaning of the Mental Capacity Act 2005) to give his consent to the tests,
- the application notice must state the name and address of the responsible adult.

1.3 Unless the court orders otherwise –

- (1) the court will serve a copy of the application notice on every party to the proceedings other than the applicant; and
- (2) the applicant must serve a copy of the application notice personally on any other person who would be directed to give samples and, where paragraph 1.2 applies, on the responsible adult.

1.4 Unless the court orders otherwise, where the court gives a direction –

- (1) the court will serve a copy of the direction on every party to the proceedings;
- (2) the applicant must serve a copy of the direction personally on any other person directed to give samples and, where paragraph 1.2 applies, on the responsible adult; and
- (3) further consideration of the proceedings shall be adjourned until the court receives a report of the tests carried out or samples taken.

1.5 When the court receives the report of the tests carried out or samples taken, the court officer shall send a copy of the report to –

- (1) every party to the proceedings;
- (2) the responsible adult where paragraph 1.2 applies; and
- (3) every other person directed to give samples.

APPLICATIONS IN PROCEEDINGS UNDER SECTION 55 OF THE NATIONAL DEBT ACT 1870

- 2.1** Where a claim is brought under section 55 of the National Debt Act 1870, the claimant must apply to the court for directions about giving notice of the claim.
- 2.2** The court may –
- (a) direct that notice of the proceedings shall be given by advertisement or by such other method as appropriate; or
 - (b) dispense with notice.